

REGULAR MEETING OF THE BOARD OF LAND COMMISSIONERS
MINUTES
May 20, 2024, 9:00 a.m.
Supreme Court Chambers, Mazurek Justice Building
Helena, MT

Members Present

Greg Gianforte, Governor
Austin Knudsen, Attorney General
Troy Downing, Commissioner of Securities and Insurance
Christi Jacobsen, Secretary of State
Elsie Arntzen, Superintendent of Public Instruction

Members Absent

None

Testifying Staff

Amanda Kaster, DNRC Director
Kristen Juras, Lieutenant Governor

Attachments

Related Materials, Attachment #1 – Sign-in Sheet
Related Materials, Attachment #2 – DNRC Frequently Asked Questions: School Trust Lands and Water Rights
Related Materials, Attachment #3 – PowerPoint: Water Rights on School Trust Land & DNRC Implementation of HB 286

Call to Order

00:17:25 Governor Gianforte called the meeting to order.
00:17:40 Austin Knudsen, Attorney General moved to approve the April 2024, minutes. The motion was seconded by Elsie Arntzen, Superintendent of Public Instruction and carried unanimously.

Business Considered

0524-1 Montana Historical Society: Sale of Land

00:18:00 Mrs. Kaster gave an overview of the item.

Public Comment:

00:19:05 Molly Kruckenberg, Director of The Montana Historical Society

00:19:30 Troy Downing, Commissioner of Securities and Insurance moved to approve item 0524-1. The motion was seconded by Austin Knudsen, Attorney General and carried 5-0.

Board Discussion/Comments:

00:19:40 Greg Gianforte, Governor

0524-2 Timber Sales

- A. Canyon Creek**
- B. Glen Mud Salvage**

C. Little Big Rock
D. Lost Elbow
E. Nelson Homestead
F. Paul Rudge

00:21:00 Mrs. Kaster gave an overview of the item.

00:24:00 Christi Jacobsen, Secretary of State moved to approve item 0524-2.

Board Discussion/Comments:

00:24:15 Troy Downing, Commissioner of Securities and Insurance

00:24:40 The motion to approve item 0524-2 carried unanimously.

0524-3 Cabin and Home Site Sales: Preliminary Approval for Sale

00:24:50 Mrs. Kaster gave an overview of the item.

00:26:05 Troy Downing, Commissioner of Securities and Insurance moved to approve item 0524-3.

Board Discussion/Comments:

00:26:15 Troy Downing, Commissioner of Securities and Insurance

00:26:25 The motion to approve item 0524-3 carried unanimously.

0524-4 Easements

00:26:35 Mrs. Kaster gave an overview of the item.

00:27:15 Elsie Arntzen, Superintendent of Public Instruction moved to approve item 0524-4. The motion was seconded by Austin Knudsen, Attorney General and carried 5-0.

0524-5 Informational Item: DNRC Implementation of HB286

00:27:35 Mrs. Kaster gave an overview of the item.

00:28:05 Kristen Juras, Lieutenant Governor, gave a presentation.

Public Comment:

00:51:45 Alan Redfield, Rancher in Paradise Valley, Former Legislator

00:54:25 Hertha Lund, Rancher and Attorney

00:57:40 Butch Gillespie, Montana SD 9

00:59:25 Raylee Honeycutt, Montana Stockgrowers Association

01:00:20 Carl Devries, SAWRA

01:01:55 Ross Morgan, Rocky Mountain Stockgrowers Association

01:04:10 Jon Metropoulos, SAWRA

01:07:20 Mike Murphy, MWRA

01:08:50 Karli Johnson, MFBF

01:11:15 John Grande, Montana Stockgrowers Association

01:13:10 Lance Melton, MTSBA

01:15:35 Jim Lane, Rancher in Wheatland County

01:17:15 Becky Beard, Montana SD 40

01:18:45 Betsy Story, Water Law and Attorney at Parsons Behle & Latimer

01:21:05 Doug Reisig, MQEC

Board Discussion/Comments:

01:22:40 Greg Gianforte, Governor
01:23:05 Kristen Juras, Lieutenant Governor
01:24:50 Greg Gianforte, Governor
01:25:15 Kristen Juras, Lieutenant Governor
01:25:40 Greg Gianforte, Governor
01:26:15 Kristen Juras, Lieutenant Governor
01:27:10 Greg Gianforte, Governor
01:27:40 Kristen Juras, Lieutenant Governor
01:28:15 Greg Gianforte, Governor
01:28:30 Kristen Juras, Lieutenant Governor
01:28:55 Greg Gianforte, Governor
01:29:20 Kristen Juras, Lieutenant Governor
01:30:50 Greg Gianforte, Governor
01:30:55 Kristen Juras, Lieutenant Governor
01:31:30 Austin Knudsen, Attorney General
01:32:15 Kristen Juras, Lieutenant Governor
01:32:40 Austin Knudsen, Attorney General
01:32:55 Kristen Juras, Lieutenant Governor
01:33:20 Brian Bramblett, Chief Legal Counsel for DNRC
01:33:30 Greg Gianforte, Governor
01:33:45 Troy Downing, Commissioner of Securities and Insurance
01:34:05 Kristen Juras, Lieutenant Governor
01:36:30 Elsie Arntzen, Superintendent of Public Instruction
01:36:45 Brian Bramblett, Chief Legal Counsel for DNRC
01:37:50 Elsie Arntzen, Superintendent of Public Instruction
01:38:35 Brian Bramblett, Chief Legal Counsel for DNRC
01:39:30 Elsie Arntzen, Superintendent of Public Instruction
01:39:40 Brian Bramblett, Chief Legal Counsel for DNRC
01:39:55 Elsie Arntzen, Superintendent of Public Instruction
01:40:20 Greg Gianforte, Governor
01:40:40 Brian Bramblett, Chief Legal Counsel for DNRC
01:40:45 Greg Gianforte, Governor
01:40:45 Brian Bramblett, Chief Legal Counsel for DNRC
01:40:50 Troy Downing, Commissioner of Securities and Insurance
01:41:20 Elsie Arntzen, Superintendent of Public Instruction
01:42:05 Greg Gianforte, Governor

0524-6 Action Item: Land Board Review of Delegation of Authority to DNRC

01:42:20 Mrs. Kaster gave an overview of the item.

Board Discussion/Comments:

01:42:40 Greg Gianforte, Governor
01:42:45 Austin Knudsen, Attorney General made a preliminary motion.
01:44:05 Christi Jacobsen, Secretary of State seconded the motion.
01:44:10 Austin Knudsen, Attorney General
01:44:45 Greg Gianforte, Governor
01:45:10 Troy Downing, Commissioner of Securities and Insurance
01:45:20 Elsie Arntzen, Superintendent of Public Instruction
01:45:40 Greg Gianforte, Governor
01:45:40 Elsie Arntzen, Superintendent of Public Instruction
01:46:00 Greg Gianforte, Governor
01:46:10 The motion passed unanimously.

01:46:15 Austin Knudsen, Attorney General made a motion.
 01:47:45 Greg Gianforte, Governor seconded the motion.
 01:48:05 Aislinn Brown, Bureau Chief at Agency Legal Services Bureau
 01:48:25 Greg Gianforte, Governor
 01:48:45 Aislinn Brown, Bureau Chief at Agency Legal Services Bureau
 01:49:50 Greg Gianforte, Governor
 01:50:10 Aislinn Brown, Bureau Chief at Agency Legal Services Bureau
 01:50:15 Greg Gianforte, Governor
 01:50:20 Aislinn Brown, Bureau Chief at Agency Legal Services Bureau
 01:50:30 Greg Gianforte, Governor
 01:50:55 Aislinn Brown, Bureau Chief at Agency Legal Services Bureau
 01:51:10 Greg Gianforte, Governor
 01:51:20 Aislinn Brown, Bureau Chief at Agency Legal Services Bureau
 01:51:30 Austin Knudsen, Attorney General
 01:52:35 Greg Gianforte, Governor
 01:53:20 Anita Milanovich, General Counsel for the Governor
 01:53:55 Greg Gianforte, Governor
 01:54:10 Anita Milanovich, General Counsel for the Governor
 01:54:20 Troy Downing, Commissioner of Securities and Insurance
 01:54:35 Anita Milanovich, General Counsel for the Governor
 01:55:00 Austin Knudsen, Attorney General made an amendment to the motion.
 01:55:35 Troy Downing, Commissioner of Securities and Insurance seconded the amended motion.
 01:55:40 Elsie Arntzen, Superintendent of Public Instruction
 01:56:00 Greg Gianforte, Governor
 01:56:10 The amendment to the motion passed unanimously.
 01:56:20 The amendment motion passed unanimously.
 01:56:25 Elsie Arntzen, Superintendent of Public Instruction
 01:57:05 Greg Gianforte, Governor
 01:57:40 Elsie Arntzen, Superintendent of Public Instruction
 01:58:10 Greg Gianforte, Governor

General Public Comment

01:58:50 Nathan Descheemaeker, Landowner
 01:59:40 Greg Gianforte, Governor
 01:59:50 Nathan Descheemaeker, Landowner
 02:08:35 Hertha Lund, Rancher and Attorney

Adjournment

02:10:55 Adjournment

PRESIDENT

ATTEST

/s/ Greg Gianforte
 Greg Gianforte, Governor

/s/ Amanda Kaster
 Amanda Kaster, DNRC Director

Please note: *The Land Board has adopted the audio recording of its meetings as the official record, as allowed by [2-3-212, MCA](#). These minutes provide an abbreviated summary of the Land Board discussion, public testimony, action taken, and other activities. The time designations listed are approximate and may be*

used to locate the referenced discussion on the audio recording of this meeting. Access to an electronic copy of these minutes and the audio recording is provided from the Land Board webpage at <http://dnrc.mt.gov/LandBoard>. The written minutes summary, along with the audio recordings, are listed by meeting date on the Land Board Archive webpage.

BOARD OF LAND COMMISSIONERS MEETING: SIGN-IN SHEET

May 20, 2024, at 9:00 am

Supreme Court Chambers, Mazurek Justice Building

Helena, MT

NAME	AFFILIATION	E-MAIL	Check to be added to the Interested Parties List
Maras Strange	MALT		
Bill & Maline Bandy	Ranchers		
TEA BANDY	RANCHER		
Albert Ford	land owner		
Nathan Reichmaeker	Land owner CDS supervisor		
DOUG REISIG	MAKER		
Ma-Radford	Rancher		
Heather Lind	Rancher Attorney		
Russ Miser	HP 19		
Raylee Honeycutt	MT Stockgrowers		
Brian Quipley	Rancher RMSG A		
Elle Brighton	MT Stockgrowers		
John Grande	MT Stockgrowers		
Kirk Johnson	MFBF		
DUSTY HATHW	MT STOCKGROWERS		
Molly Kruckenberg	MTITS		

Email landboard@mt.gov or indicate on this sign-in sheet if you would like to be placed on the Land Board Interested Parties List.

This sign-in sheet is a public record under Title 2, Chapter 6 of the Montana Code Annotated, but may not be reproduced or distributed for use as a mailing list without the permission of the named individuals under 2-6-1017, MCA.

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NAME	AFFILIATION	E-MAIL	Check to be added to the Interested Parties List
ROSS MORGAN	Rocky Mountain Stockgrowers Assoc.		
BETSY STORY	Parsons Behle & Latimer	bstory@parsonsbehle.com	✓
Jocelyn Cahill	SAWRA		
Jon Metropoulos	SAWRA	jon@metropouloslaw.com	✓
Jim Lane	Landowner	jflane@mtintouch.net	✓
CARL DEVRIS	SAWRA	CARL@D-RocksBOYZ.com	✓
Aislinn Brown	ALSB	aislinn.brown@mt.gov	
Butch Hellens	Senate	mt_ranch@northentel.net	✓
Doreen "	"		
Becky Beard	MT SD 40	becky.beard@legmt.gov	
Mike Murphy	MWRA	mwra_h2o@msn.com	
LANE MELTON	MTSBA	L.MELTON@MTSBA.ORG	✓

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GREGGIANFORTE, GOVERNOR

1539 ELEVENTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE: (406) 444-2074
FAX: (406) 444-2684

PO BOX 201601
HELENA, MONTANA 59620-1601

Frequently Asked Questions: School Trust Lands and Water Rights

What are school trust lands?

When Montana became a state in 1889, it was granted Sections 16 and 36 of every township to generate revenue for common schools and establish a permanent school fund. The State accepted these lands in trust for the people, directing that all proceeds go to the Montana school fund, which must remain inviolate.

What has the Montana Supreme Court said about the trust?

The Montana Supreme Court has ruled that the Land Board owes the duty of undivided loyalty to the beneficiaries of the school trust and must act with the utmost good faith towards the beneficiaries. The State has a binding and perpetual fiduciary obligation to secure the largest advantage to the State and provide for the long-term financial support of education. To this end, the Court has found interests in school trust lands cannot be alienated unless the trust receives adequate compensation for that interest. Any law or policy that infringes on the State's management over these lands is impermissible if it reduces the value of the land.

What is the role of the Land Board and the Department of Natural Resources and Conservation?

The Montana Constitution authorizes the Land Board to direct, control, and dispose of school trust land.

The Land Board is guided by the principle that school trust lands and funds are held in trust for the support of public education. It has a mandate to secure the largest advantage for the State and to fund education. It cannot transfer interests in school trust land unless the full market value has been paid or secured to the State.

In 1973 and 1996, the Land Board delegated its functions, except those expressly reserved by the Board, to the Department of Natural Resources and Conservation (DNRC). DNRC is subject to the same fiduciary duties as the Land Board.

Why does the Land Board assert ownership in water rights developed by a lessee for beneficial use on school trust lands?

The Montana Supreme Court has found allowing lessees to develop private rights on school trust lands would reduce the State's ability to fulfill its constitutional obligation to manage these lands to the maximum benefit for Montana's public schools.

A water right that is developed for beneficial use on school trust lands is an appurtenant water right. Water rights appurtenant to school trust land are part of the trust. As such, the Land Board must assert ownership over the water right and, if disposed of, receive fair market value for it to fully compensate the school trust beneficiaries.

Recently, the Montana Supreme Court upheld Land Board ownership of that portion of a pre-July 1, 1973, "use" water right developed and beneficially used on school trust land where the point of diversion for the water right is on private property.

Are there exceptions to State ownership of water rights on school trust lands?

Yes. For pre-1973 water rights, the State claims ownership only for those rights that were perfected and appurtenant to school trust lands after the lands vested with the State. Four things must exist for trust lands to vest with the State: an official survey of the land, plat approval, a federal grant of the land to the State, and the State's admission into the Union.

The State will not assert ownership in pre-1973 water rights perfected on, and appertaining to, private land, which have subsequently been used temporarily on school trust lands.

Additionally, in 2019 the Montana Legislature passed House Bill 286, which governs post-1973 water rights. HB 286 allows a lessee to temporarily use a private water right on school trust land for the duration of a lease. A lessee can obtain a temporary change authorization from DNRC to use a private water right on school trust land during the term of the lease. Though the term of the temporary change may not exceed 10 years, it may be renewed with DNRC's approval. Temporary use does not create an appurtenance to the school trust land, and the place of use automatically reverts to the private property upon which the water right was originally used.

Does HB 286 prevent the State from asserting ownership in water rights diverted on private land and developed on school trust land?

No. HB 286 was passed to address DNRC's unilateral assertion of ownership on numerous post-1973 water rights during the Bullock administration. HB 286 required the State to remove its name from those water rights to which it was unilaterally added. It did not require the State to waive any interest it has in those water rights, nor did it forbid the State from asserting an ownership interest in the future, so long as it followed the law in doing so.

Additionally, the Montana Supreme Court ruled HB 286 "maintains the status quo until the State asserts its ownership of water rights in the affected lands[.]" DNRC is analyzing all water rights from which it rescinded the State's name to determine whether the agency has a fiduciary obligation to assert a State interest through the processes established by HB 286.

Did House Bill 286 require the State to remove its name from all water rights?

No, it only requires the State be removed from those post-1973 claims to which it was unilaterally added.

Does the State assert ownership over wells or pipelines used to divert a water right on private land to be developed and beneficially used on school trust land?

No. Interests in water rights and wells/pipelines are separate and distinct. Just because an entity has a water right does not mean it has an interest in the ditch, canal, or other structure conveying the water.

Does HB 286 apply to the adjudication of pre-1973 water rights before the Water Court?

No. HB 286 applies to post-1973 water rights.

Is the State's assertion of ownership a "taking" of private property?

No, as mentioned, the State has an obligation to manage school trust lands to benefit Montana's public schools. As such, the State has a valid, legal interest in its property and all water appurtenant thereto. If properly vested in the State, asserting ownership in a right cannot be a "taking" or violate due process.

Water Rights on School Trust Land & DNRC Implementation of HB 286



Executive Summary

- The Bullock Administration **improperly asserted State co-ownership of private water rights without following due process.**
- In 2019, **the Legislature passed House Bill 286**, requiring DNRC to rescind State ownership of those water rights and establishing a process for State claims of co-ownership in the future.
- **HB 286 was opposed by the Bullock Administration and was challenged in the courts.**
- Upon taking office, **the Gianforte Administration worked with the Attorney General to defend HB 286 and rescinded the State's claims on those water rights.** Under the Gianforte Administration, DNRC has fully implemented the law.
- **The State does not own any ownership interest in any improvements on private land** (wells, pipes, ditches, etc.) that are used by a lessee

**DNRC is committed
to private property
rights**

**and its constitutional
obligation to generate
revenue to benefit public
schools.**

Background

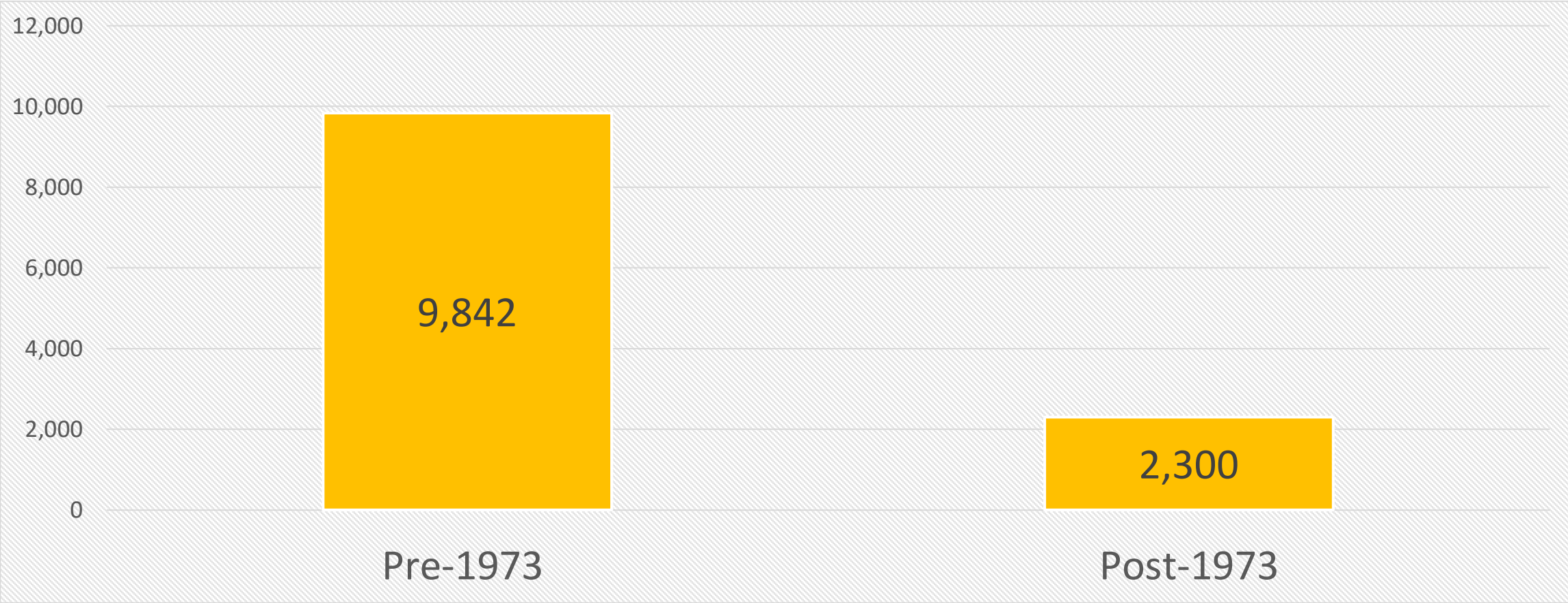
- The lands granted to Montana by the federal government under the 1889 Enabling Act are **held in trust** by the State for the support of common schools and public universities.
- The Land Board serves as a **trustee** subject to strict **fiduciary duties**, including the duty of **undivided loyalty** to the beneficiaries of the trust, in this case **public schools**.
- The Land Board has a fiduciary obligation to ensure that no interest in trust land is disposed of or alienated **unless** the trust receives **full market value**.

Two Water Right Processes

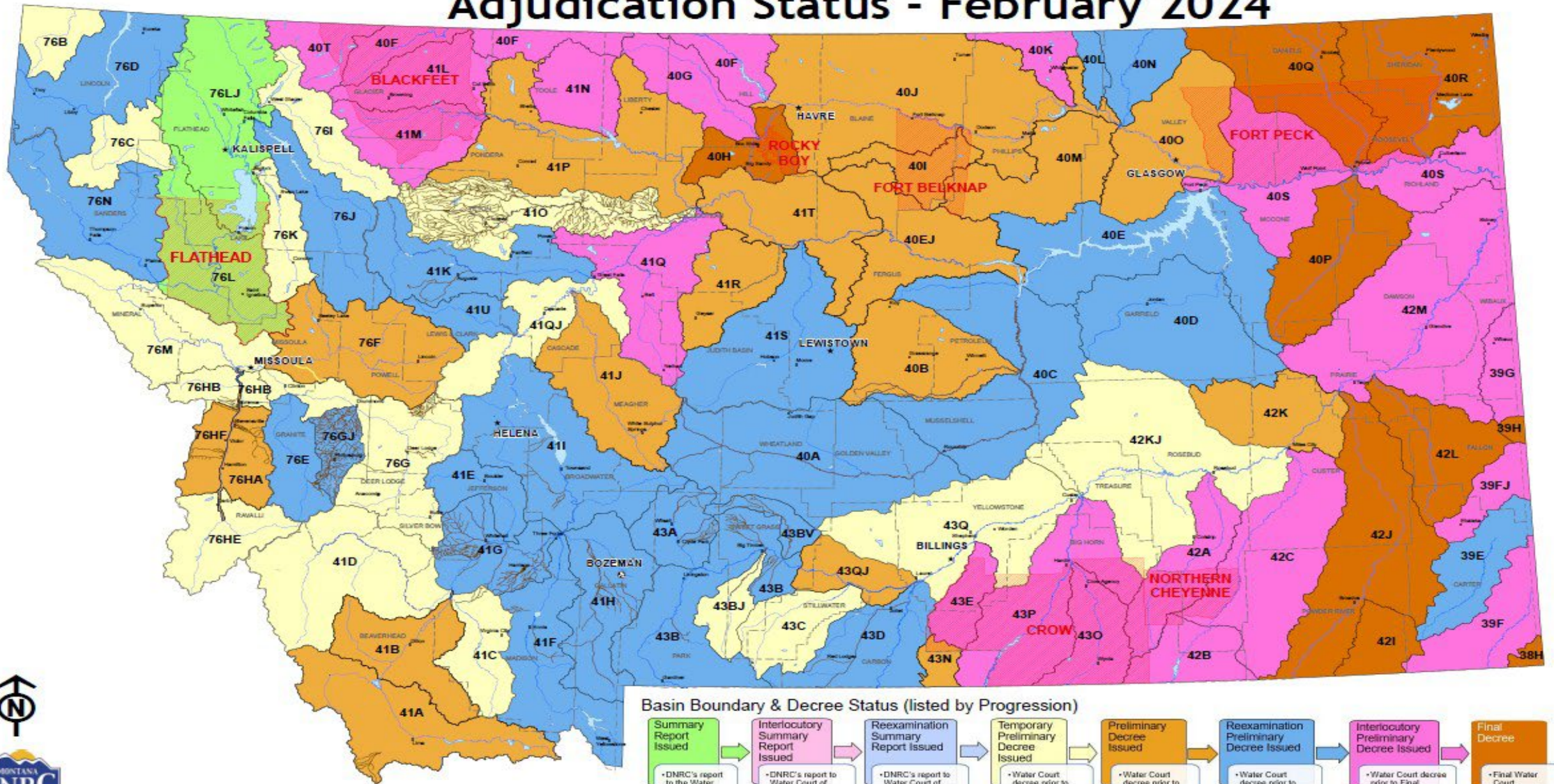
Pre-July 1, 1973
Adjudication

Post-July 1, 1973
Permitting Process

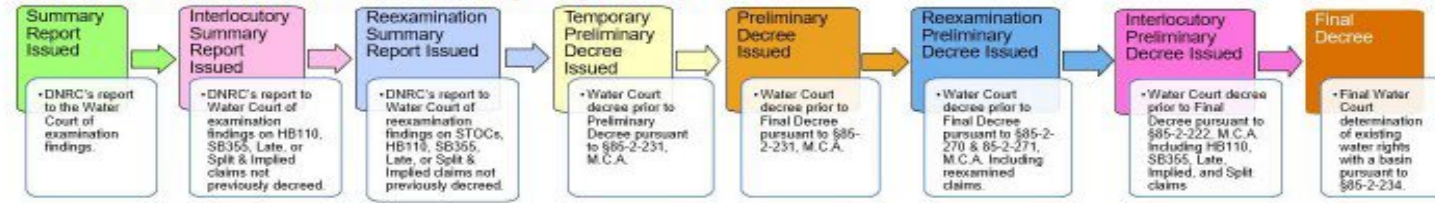
Summary of State Water Right Ownership Interests



Adjudication Status - February 2024



Basin Boundary & Decree Status (listed by Progression)



Summary Report Issued
 • DNRC's report to the Water Court of examination findings.

Interlocutory Summary Report Issued
 • DNRC's report to Water Court of examination findings on HB110, SB355, Late, or Split & Implied claims not previously decreed.

Reexamination Summary Report Issued
 • DNRC's report to Water Court of reexamination findings on STOCs, HB110, SB355, Late, or Split & Implied claims not previously decreed.

Temporary Preliminary Decree Issued
 • Water Court decree prior to Preliminary Decree pursuant to §§5-2-231, M.C.A.

Preliminary Decree Issued
 • Water Court decree prior to Final Decree pursuant to §§5-2-231, M.C.A.

Reexamination Preliminary Decree Issued
 • Water Court decree prior to Final Decree pursuant to §§5-2-270 & 85-2-271, M.C.A. Including reexamined claims.

Interlocutory Preliminary Decree Issued
 • Water Court decree prior to Final Decree pursuant to §§5-2-222, M.C.A. Including HB110, SB355, Late, Implied, and Split claims.

Final Decree
 • Final Water Court determination of existing water rights with a basin pursuant to §§5-2-234.



Water Right Adjudication of Pre-1973 Water Rights on School Trust Lands

- On **March 18, 1980**, the Department of State Lands (DSL) and its Commissioner provided to the Land Board a detailed plan for pursuing claims in the statewide adjudication.
- The Land Board voted **unanimously** to direct the State to pursue all water rights for school trust land in the water rights adjudication.

Department of State Lands v. Pettibone (Powder River Basin, 1985)

- In 1985, the Montana Supreme Court ruled that a water right intended to be **beneficially used on school trust land** constitutes **an interest in school trust land** for which the trust **must receive** full market compensation.
 - Allowing lessees to develop private, personal rights on school trust lands would **reduce the ability of the State to manage these lands for their highest value**.
 - State ownership of a water right developed by a lessee **does not constitute a taking of private property**.
 - The Water Court adjudication provides **due process** of law for pre-1973 water right ownership disputes.
- In April 1986, the Water Court ordered all remaining decrees to add the state as a co-owner for all water rights used on school trust land, following *Pettibone*.

Pre-1973 State Water Rights

Currently, the State has an adjudicated or claimed ownership interest in **9,842** pre-1973 water rights on trust lands.



Sole State Ownership:

POD on School Trust Land, POU on School Trust Land only
POD off School Trust Land, POU on School Trust Land only



Partial State Ownership:

POD on School Trust Land, POU on School Trust Land and Private
POD off School Trust Land, POU on School Trust Land and Private

What does co-ownership look like?

POD on School Trust Land/POU School Trust Land and Private

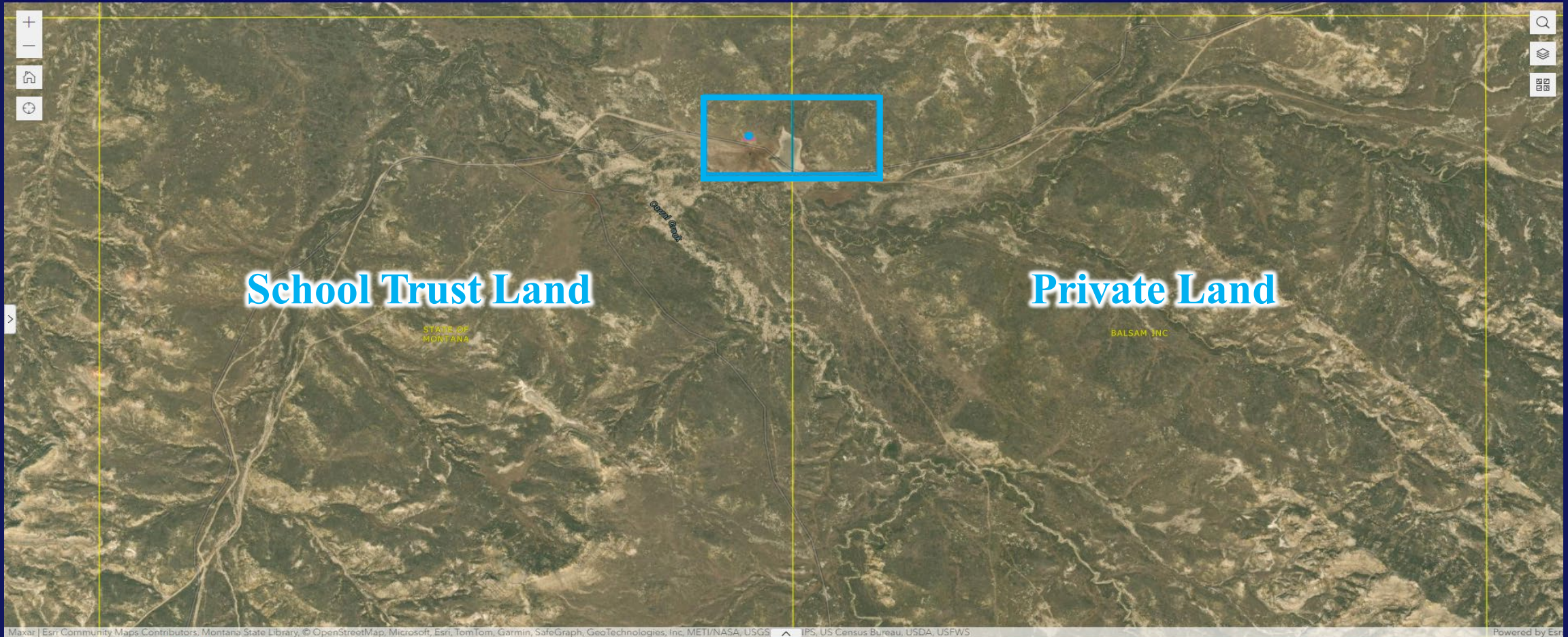


Water Rights Query System

Search

Table

About





No State Ownership

- Water rights developed and beneficially used on private property and then temporarily used on state trust lands (Kunnemann)
- Water rights developed and beneficially used on property before title vested in the State (after survey, federal approval, and admission of State to Union in 1889)

Post-July 1, 1973 Water Rights

- DNRC follows the long-standing rules set by the Land Board.
- **36.25.134 WATER RIGHTS**
 - (1) If a water right is or has been developed on state land by the lessee or licensee **for use on the leased or licensed land**, such water right shall belong to the state. . . . Any water rights hereafter secured by the lessee and licensee on state lands shall be secured in the name of the state of Montana.

Improper Process in the Bullock Administration with “the 141”

- **Early 2010’s:** The Bullock-era DNRC **discovered dozens of post-1973** water rights with a POU on school trust land and POD on private property for which the State was not listed as an owner.
 - There **wasn’t a process** for DNRC to assert an ownership interest in post-July 1, 1973 water rights.
- **2014 – 2018:** Bullock-era DNRC **unilaterally** added the State as a co-owner to approximately 141 post-1973 water rights and improperly deprived property owners of notice and due process.
- **House Bill 286 corrected this.**

Form 608 Revised 10/2017

File in WR# _____

DNRC WATER RIGHT OWNERSHIP UPDATE

This form is for DNRC record keeping purposes only as required by MCA 85-2-101(2).
The deed is the legal document transferring the water right.

Use a new form for each deed transaction.

Filing Fee
\$50.00 for 1 water right and \$10.00 for each additional right up to a maximum of \$300.00.

FOR DEPARTMENT USE ONLY

Rec'd By _____

Fee Rec'd \$ _____ Check No. _____

Payor _____

Refund \$ _____ Date _____

Deposit Receipt # _____

Coder _____ RO# _____ OUID# _____

For complete information, see file: _____

1. **SELLER (Grantor)** _____
 MAILING ADDRESS _____
 CITY _____ STATE _____ ZIP _____
 PHONE _____ EMAIL _____
2. **BUYER (Grantee)** _____
 MAILING ADDRESS _____
 CITY _____ STATE _____ ZIP _____

HB 286 (2019): What did it do?

Looking backward: It required DNRC to rescind the State's claim of ownership on the improperly claimed water rights, which this administration did.

Going forward:

Two ways for the state to obtain an ownership interest:

- 1) A court determines the state is an owner of that particular water right
or
- 2) A deed transfers ownership of the water right to the state.

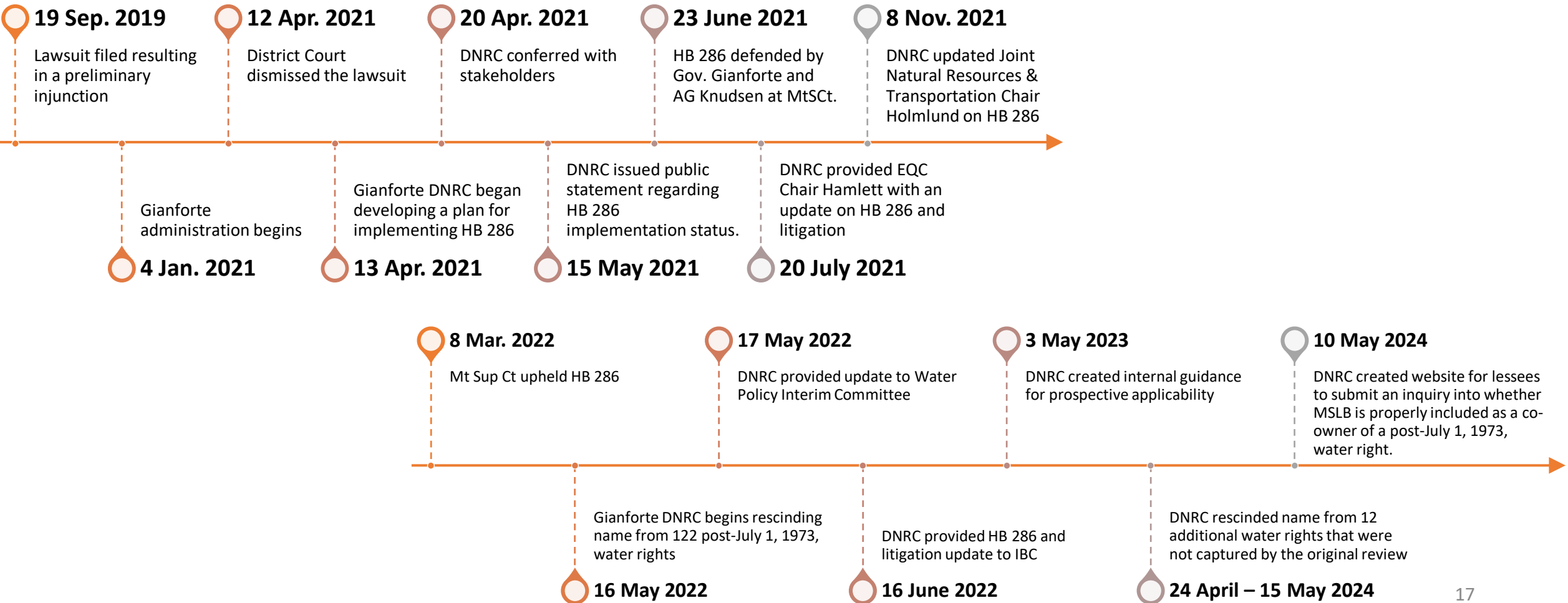
It also allows temporary use of a private water right on state trust land for the duration of a state land lease the water right owner holds.

HB 286: Legal Defense & Implementation

With a new administration and DNRC director, the policy changed.

- When the Gianforte Administration took office, the Governor's Office and AG Knudsen defended HB 286 in front of the Supreme Court.
- The Court held HB 286 provides a **process** for the State to establish ownership in a post-July 1, 1973 groundwater right with a POD on private land that is beneficially used on school trust land.
- It also held: Rescinding co-ownership from those improperly claimed water rights does not waive the State's ownership interest in those water rights, if the HB 286 process is followed.
- DNRC continues to implement HB 286, communicate with stakeholders, and has created **WaterComplaint.MT.gov** to ensure it is not repeating the mistakes of previous administrations.

HB 286 Implementation Timeline 2019-2021



HB 286 & Trust Lands Management Review

Trust Lands Management is currently analyzing all rescinded water rights to determine whether the Land Board has a fiduciary obligation to assert a state ownership interest through the processes established by HB 286.

Temporary Use of Existing Water Right on State Trust Land

- House Bill 286 allows the owner **of an existing water right** to “put water from a well or developed spring with ground water development works located on private land **to beneficial use on state trust land for the duration of a state land lease** the water right owner holds.”
- Lessees interested in using their private water right on state trust land for the term of a lease must apply **for change of water right** (Form 606) to temporarily change the place of use to the leased state trust land.
 - A temporary change is limited to **ten years**.
 - The State is not added as a co-owner.
 - The temporary change automatically terminates after 10 years and the place of use reverts to the original place of use.
 - If the lessee wants to extend its use for another 10 years, DNRC requires an application to renew again.

New Applications Today

- As applications are submitted by a state land trust lessee proposing a POD on private land and POU on state trust land, to fulfill the State's fiduciary obligations the Land Board is added as a co-applicant if the proposed project **will add value** to the school trust land.
 - A **written agreement** will set forth the portion of the water right to be owned by the State.
- If the lessee prefers not to have the State as a co-owner, DNRC will explain **alternatives**, including limiting the POD and POU to private land and, after securing the water permit, subsequently submitting a temporary change of use to state trust land for the term of the lease.

Improvements on Private & State Lands

- The State **does not own** any interest in any improvements on private land that are used by a lessee in diverting or transporting water onto school trust lands.
- If a lease expires, lessee is reimbursed for any improvements on state trust lands.



Executive Summary

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